

MINUTES OF THE MEETING OF
THE BOARD OF COSMETOLOGY, ELECTROLOGY, ESTHETICS,
NAIL TECHNOLOGY, AND BODY ART

July 6, 2015

1. ROLL CALL

The meeting of the Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art was called to order by the Chairperson, Lyra Faltys, at 10:38 a.m., Lower Level Conference Room B, Nebraska State Office Building, Lincoln, Nebraska. Copies of the agenda were mailed to the Board members and other interested parties in accordance with the Public Meeting Law.

The following members answered roll call:

Bridget Anderson	-	Member
Lyra Faltys	-	Chairperson
Melanie Judkins	-	Member
Marie Nordboe	-	Member
Becky Pettigrew	-	Vice-Chairperson
Lisa Pfeil	-	Member
Pamela Rowland	-	Member

Members Absent:

Vicki Criswell	-	Member
Pamela Foran	-	Member
Jason Lassek	-	Secretary (arrived 10:43 a.m.)
Ruth Lucas	-	Member
David Newson	-	Member

Others present were:

Ed Vierk, Assistant Attorney General
Kathy Krueger, Investigator
Dennis Scott, Investigator
Kris Chiles, Program Manager, Licensure Unit
Nancy Herdman, Health Licensing Coordinator, Licensure Unit

A quorum was present and the meeting convened.

2. ADOPTION OF AGENDA

MOTION: Judkins moved, seconded by Rowland, to adopt the agenda. A roll call vote was taken. Voting aye: Anderson, Faltys, Judkins, Nordboe, Pettigrew, Pfeil, Rowland (7). Voting nay: None (0). Absent: Criswell, Foran, Lassek, Lucas, Newson (5). Motion carried.

3. APPROVAL OF MINUTES (5-4-15, 5-18-15 work session, 6-1-15, 6-29-14 work session)

MOTION: Rowland moved, seconded by Nordboe, to approve the minutes of 5-4-15. A roll call vote was taken. Voting aye: Anderson, Faltys, Judkins, Pettigrew, Pfeil, Rowland (6). Voting nay: None (0). Abstain: Nordboe (1). Absent: Criswell, Foran, Lassek, Lucas, Newson (5). Motion carried.

MOTION: Pettigrew moved, seconded by Rowland, to approve the work session minutes of 5-18-15. A roll call vote was taken. Voting aye: Faltys, Nordboe, Pettigrew, Pfeil, Rowland (5). Voting nay: None (0). Abstain: Anderson, Judkins (2). Absent: Criswell, Foran, Lassek, Lucas, Newson (5). Motion carried.

MOTION: Pettigrew moved, seconded by Anderson, to approve the minutes of 6-1-15. A roll call vote was taken. Voting aye: Anderson, Faltys, Judkins, Nordboe, Pettigrew, Pfeil, Rowland (7). Voting nay: None (0). Abstain: None (0). Absent: Criswell, Foran, Lassek, Lucas, Newson (5). Motion carried.

The work session on June 29, 2015 did not have a quorum so there were no minutes.

4. INVESTIGATIONAL & CONFIDENTIAL INFORMATION/REPORTS – CLOSED SESSION

MOTION: Pettigrew moved, seconded by Rowland, to enter into closed session at 10:42 a.m. for the purpose of hearing discussions of a confidential nature and for the prevention of needless injury to the reputation of the individuals. A roll call vote was taken. Voting aye: Anderson, Faltys, Judkins, Nordboe, Pettigrew, Pfeil, Rowland (7). Voting nay: None (0). Absent: Criswell, Foran, Lassek, Lucas, Newson (5). Motion carried.

10:43 a.m. - Lassek entered meeting
11:20 a.m. - Scott and Krueger departed meeting

MOTION: Nordboe moved, seconded by Pettigrew, to return to open session at 11:39 a.m. A roll call vote was taken. Voting aye: Anderson, Faltys, Judkins, Lassek, Nordboe, Pettigrew, Pfeil, Rowland (8). Voting nay: None (0). Absent: Criswell, Foran, Lucas, Newson (4). Motion carried.

5. APPLICATION REVIEW AND RECOMMENDATIONS – OPEN SESSION

a. Initial Licensure/Reinstatement/Convictions/Administrative Penalties

Linda Conradt – Nail Technologist

MOTION: Anderson moved, seconded by Pfeil, to recommend issuance of the license with no terms or conditions. A roll call vote was taken. Voting aye: Anderson, Faltys, Lassek, Nordboe, Pettigrew, Pfeil, Rowland (7). Voting nay: Judkins (1). Abstain: None (0). Absent: Criswell, Foran, Lucas, Newson (4). Motion carried.

Marcus Hitz – Tattoo Artist and Body Piercer

MOTION: Pettigrew moved, seconded by Pfeil, to recommend issuance of the license with no terms or conditions. A roll call vote was taken. Voting aye: Anderson, Faltys, Judkins, Lassek, Nordboe, Pettigrew, Pfeil, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Criswell, Foran, Lucas, Newson (4). Motion carried.

Liyanda Mafilika - Esthetician

MOTION: Judkins moved, seconded by Pettigrew, to recommend issuance of the license with no terms or conditions. A roll call vote was taken. Voting aye: Anderson, Faltys, Judkins, Lassek, Nordboe, Pettigrew, Pfeil, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Criswell, Foran, Lucas, Newson (4). Motion carried.

Shantee Richardson – Nail Technician

MOTION: Pfeil moved, seconded by Anderson, to recommend issuance of the license with no terms or conditions. A roll call vote was taken. Voting aye: Anderson, Faltys, Judkins, Lassek, Nordboe, Pettigrew, Pfeil, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Criswell, Foran, Lucas, Newson (4). Motion carried.

Claire Stinson - Cosmetologist

MOTION: Judkins moved, seconded by Pfeil, to recommend issuance of the license with no terms or conditions. A roll call vote was taken. Voting aye: Anderson, Faltys, Judkins, Lassek, Nordboe, Pettigrew, Pfeil, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Criswell, Foran, Lucas, Newson (4). Motion carried.

Honey Yassi – Cosmetologist Reinstatement

MOTION: Pettigrew moved, seconded by Anderson, to recommend issuance of the license with no terms or conditions. A roll call vote was taken. Voting aye: Anderson, Faltys, Judkins, Lassek, Pettigrew, Pfeil, Rowland (7). Voting nay: Nordboe (1). Abstain: None (0). Absent: Criswell, Foran, Lucas, Newson (4). Motion carried.

Casey Seivert - Cosmetologist

MOTION: Pettigrew moved, seconded by Pfeil, to recommend issuance of the license with no terms or conditions. A roll call vote was taken. Voting aye: Anderson, Faltys, Judkins, Lassek, Nordboe, Pettigrew, Pfeil, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Criswell, Foran, Lucas, Newson (4). Motion carried.

Jamie Conover - Esthetician

MOTION: Pfeil moved, seconded by Nordboe, to recommend issuance of the license with no terms or conditions. A roll call vote was taken. Voting aye: Anderson, Faltys, Judkins, Lassek, Nordboe, Pettigrew, Pfeil, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Criswell, Foran, Lucas, Newson (4). Motion carried.

11:43 a.m. - Break
 11:57 a.m. - Meeting resumed
 Kevin Griess, Department attorney, entered the meeting

Moved to agenda item 7a.

7. NEW BUSINESS

a. Discussion Relating to the United States Supreme Court Decision (*North Carolina State Bd. of Dental Examiners v. FTC*)

Griess referred to the memo that was forwarded to the members regarding this Supreme Court decision and stated this case would impact cease and desist orders. Griess suggested deferring any cease and desist orders until further discussion occurs with the Attorney General's Office or the Department attorney. He stated that the Attorney General's Office could bring a lawsuit/injunction, or that the cease and desist issue might be addressed with legislation or County Attorneys issuing an injunction but there was no way of knowing whether a County Attorney would pursue such action. Vierk stated his office would look at each cease and desist on a case by case basis.

12:25 p.m. - Vierk departed meeting
 12:28 p.m. - Lassek departed meeting (conflict)

MOTION: Pettigrew moved, seconded by Judkins, to enter into closed session at 12:28 p.m. for the purpose of hearing discussions of a confidential nature and for the prevention of needless injury to the reputation of the individuals. A roll call vote was taken. Voting aye: Anderson, Faltys, Judkins, Nordboe, Pettigrew, Pfeil, Rowland (7). Voting nay: None (0). Absent: Criswell, Foran, Lassek, Lucas, Newson (5). Motion carried.

MOTION: Pettigrew moved, seconded by Nordboe, to return to open session at 12:38 p.m. A roll call vote was taken. Voting aye: Anderson, Faltys, Judkins, Nordboe, Pettigrew, Pfeil, Rowland (7). Voting nay: None (0). Absent: Criswell, Foran, Lassek, Lucas, Newson (5). Motion carried.

12:38 p.m. - Lassek entered the meeting

Trina Wells – Cosmetologist Reinstatement from Voluntary Surrender

MOTION: Rowland moved, seconded by Nordboe, to defer the application and request additional information. A roll call vote was taken. Voting aye: Anderson, Faltys, Nordboe, Pettigrew, Pfeil, Rowland (6). Voting nay: Judkins (1). Abstain: Lassek (1). Absent: Criswell, Foran, Lucas, Newson (4). Motion carried.

6. Unfinished Business**a. Review/Revise Conviction Guidelines Relating to Application Reviews**

The Board reviewed the document and recommended the following changes:

- For MIP: Under column four, change it to "3 or more MIPs within 5 years prior to application"
- For DUI: If 1 DUI within the past 2 years prior to applying and current court probation, application would be brought to the Board. For DUI under column four, change it to "more than 1 DUI within 3 years of application."
- For controlled substance: Stay with the 5 years. If 2 or more offenses more than 5 years ago, take off request evaluation.
- For shoplifting: If 1 offense, it does not need to come to the Board. If 2 or more offenses within the past 3 years, application would come to the Board.
- For other convictions such as Assault, Burglary, etc.: Always bring to the Board. Add theft to this category.
- Under the minor offenses category: Change it to "If more than 3 within the past 3 years, requires board review." Put Disorderly House in this category.
- Under Fail to Report Convictions: If applicant fails to report 4 or more minor convictions, bring application to the Board.

Chiles stated she would provide revised version at the next meeting.

12:55 p.m. - Public person entered meeting

1:15 p.m. - Griess departed meeting

7. NEW BUSINESS**b. Correspondence/Issues/Other**

Chiles stated she had received an inquiry relating to providing tattoo services to a pregnant client. The Board concurred that there was no specific language in the Body Art regulations or statutes that related to providing body art services to pregnant clients. However, members indicated that it would be in the best interest and safety of the unborn child to consider the health risks (and may be best practice to not provide services) just as artists should consider the health and safety of the client for other known health issues. The Board will be further researching this subject matter and re-address the issue at a future meeting.

c. Body Art, Cosmetology, Electrology, Esthetics, Nail Technology, Indoor Tanning Facilities

Body Art – Judkins distributed material for discussion at the upcoming work session. She asked about the exemption of regulation requirements on federal lands when performing body art. Chiles responded that if body art is taking place on Indian Reservations that are considered federally recognized lands (such as Winnebago), the person is not required to hold a license but the regulations must be followed if not on federal exempt land.

Cosmetology – Lassek stated he had received many comments on his face book page regarding who could or should shampooing services. He said many thought you had to be a cosmetologist and other comments expressed a concern relating to leaning the head back on the sink when shampooing because they thought it could cause a stroke.

Electrology – There was no information to report.

Esthetics – There was no information to report.

Nail Technology – Pettigrew reported that C & D now has a LED light which is good for 26,000 hours. She

said it never needs to be replaced and it makes product removal easier. Pettigrew stated there was a new top coat and C & D now had all steps of their shellac system patented. She also reported that there had been a two million dollar lawsuit with Regal Nails and Walmart (not sure which state the salon is located in) where the formula they used had been left on too long; she believed Walmart settled.

Indoor Tanning – Pettigrew reported the FDA was attempting to add additional restrictions and likely would in the future say those 18 years and younger could not use tanning beds. She said she would know more after she attended the Tanning convention.

d. Funding Approval for Attendance at NIC Annual Conference on August 29-30, 2015

MOTION: Anderson moved, seconded by Pfeil, to approve funding for two individuals to attend the NIC meeting. A roll call vote was taken. Voting aye: Anderson, Faltys, Judkins, Lassek, Nordboe, Pettigrew, Pfeil, Rowland (8). Voting nay: None (0). Absent: Criswell, Foran, Lucas, Newson (4). Motion carried.

1:50 p.m. - Pettigrew departed meeting

e. Other

There was no new information to report.

8. REPORTS/UPDATES

a. Disciplinary/Non-Disciplinary Action Report

Chiles passed around the actions taken during the past two months.

b. Statistics: Examinations / Renewal / Licensing / Administrative Penalties

Chiles reported the following examination results since May 1, 2015:

Nail Technology	4 passed, 4 failed
Cosmetology	77 passed, 12 failed
Esthetician	12 passed, 1 failed
Cosmetology Instructor.	3 passed
Jurisprudence - Probation	4 passed, 1 failed
Jurisprudence – CE	1 passed

Chiles reported the following body art statistics:

Body Art Facility	120
Brander	2
Body Piercer	68
Permanent Color Technician	36
Tattoo Artist	248

1:53 p.m. - Pettigrew entered meeting

Chiles reported the following statistics:

Nail Technician	1304
Instructor	13
Salons	188
Salon Consideration Certificate	6
School	7
Temporary Practitioner	0
Apprentice Salon	0
Cosmetician	6
Cosmetologist	8499
Instructor	164
Salon	2180
Salon Consideration Certificate	48
Schools	18
Temporary Practitioner	19
Electrologists	18
Esthetician	791
Instructor	19
Salon	47
Salon Consideration Certificate	6
Home Service Permit	4
Satellite Classroom	1
Temporary Practitioner	2

Chiles reported that the statutes authorize the Department to refuse to renew a license if an administrative penalty is not paid. Individual who owe an administrative penalty are now sent a notice, 60-90 days before the renewal expiration date, advising them that the Department will not renew their license if they have an outstanding administrative penalty. The only exception would be a licensee who is on a payment plan and following it.

Chiles stated cosmetology/nail technology/esthetic salon licenses expire September 30th and renewals would be going out soon. She advised that the notices will be postcard size.

Lassek asked about Dr. Acierno's resignation and who was doing his duties. Chiles responded that Courtney Phillips, DHHS CEO was the Acting Division Director but not the Chief Medical Officer. If there are disciplinary cases, there are physicians in the Department who will be assigned to review.

Chiles reported with the Supreme Court ruling on same sex marriages, the Department would accept a marriage license as evidence for a name change request.

Faltys reminded the members of the work session on July 20, 2015, and the August 3, 2015 conference call meeting. Chiles stated that by Monday she had to present any proposed legislation to the Department to see if the Department would sponsor it. If the Department will not, then someone else would need to sponsor it,

9. ADJOURNMENT

Faltys declared the meeting adjourned at 2:14 p.m.

Respectfully submitted,

Jason Lassek, Secretary
Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art

Summarized by Nancy Herdman, Health Licensing Coordinator